

**APPLICATION REQUESTING THE SUSPENSION OF EXECUTION OF PERMIT :**

Whereas appellants humbly submit and premise as follows:

That appellants are third party registered objectors and interested persons for all intents and purposes at law.

That contextually with this application they are filing an appeal from the Planning Commission's decision on the application for full development permission published in the Government Gazette on the 12<sup>th</sup> May 2021.

ENVIRONMENT AND PLANNING  
REVIEW TRIBUNAL  
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ST. FRANCIS DITCH  
FLORIANA

That the appellants are hereby requesting the suspension of the execution of the permit for the following reasons:

- 1) That the approved development which is deemed to be in breach of LN 227 and sanitary and privacy laws. Once the development has taken place, it will be practically impossible to reverse.
  
- 2) That there are current separate pending appeals and applications related to the application and site in question. These are PA 2823/16 which is currently being appealed and PA 8458/17 which the appellants are objecting to. In light of the public interest element in ensuring that the correct policies and procedure were followed, it is humbly submitted that this Tribunal adopt the precautionary principle and suspend the execution of works which would result in the immediate and permanent change to the streetscape and an impingement of the appellants' rights to privacy, ventilation and illumination as protected by planning laws and policies.

- 3) That the works cannot easily be reversed . That the potential prejudice to the appellants cannot be dismissed by asking them to rely on other authorities or other divisions of the planning authority as fragmentation of responsibilities leads to the residents always losing out in the end. The precautionary principle should be given priority especially when it comes to the wellbeing of residents whose health, safety, prospect and amenity is constantly being sacrificed on the altar of rampant commercialization without a thought for the community.
- 4) That during the course of the processing of this application, the appellants have pointed out various breaches of planning laws, policies, sanitary requirements and risks to safety and health – all of which were ignored. That not suspending the execution of the permit will result in an immediate and far greater prejudice to appellants in comparison to that of the applicants if the permit was not immediately suspended. In fact the suspension of the permit does not affect the applicant negatively as the time for the decision of this appeal will be abbreviated by means of the suspension – which will result in a greater degree of legal certainty for the applicant and shortened decision time spans.
- 5) That the approved application lacks certain requirements necessitated by policies – such as the provision of privacy and sanitary safeguards– which cannot be incorporated without a wholesale change of plans, which holistic revision and amendment is rendered more unlikely unless the execution of the permit - as is - is suspended without delay.
- 6) That the approved application was based on incorrect information and that the appellants should not be prejudiced further because of this shortcoming.
- 7) That the provisions of Chapter 551 of the Laws of Malta require only that *“the prejudice that would be caused would be disproportionate when compared with the prejudice caused by the staying of the actual execution of the permit.”* The legislator has laid down the possibility for appellants to seek a temporary staying of the execution of the permit,

without requesting the appellant to show that irreparable harm will be caused if the execution is not granted. In this, the legislator has distinguished this right of action from that pertaining to the right to request a prohibitory injunction in accordance with Civil Law. Although in the latter cases, the Courts have occasionally held that a prohibitory injunction served to offer protection to a person whose rights would be lost or curtailed **irreparably** without such a warrant. This is not the case with the remedy being availed of under Chapter 551 which only requires a comparison of the potential prejudice caused by the granting of the suspension as opposed to it not being granted.

In view of the above the appellants humbly request this Honourable Tribunal to suspend the execution of the permit under the terms and conditions as it deems fit.

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Perit Robert Borg Hayman